

## **PLANNING COMMISSION**

September 22, 2021

Action Minutes

### **WELCOME**

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### **ROLL CALL**

PRESENT: Commissioners Bonilla, Casey, Caballero, Cantrell, Garcia, Lardinois, Montañez, Oliverio (arrived at 6:38 p.m.), Ornelas-Wise, Torrens, Young

ABSENT: None

## **1. CALL TO ORDER & ORDERS OF THE DAY**

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Meeting called to order at: 6:30 p.m.

Access the video, agenda, and related reports for this meeting by visiting the City's website at:  
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

## 2. PUBLIC COMMENT

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Public comments to the Planning Commission on non-agendized items. Please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak. Each member of the public may address the Commission for up to two minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

### **ITEM 2 WAS PULLED AND TAKEN OUT OF ORDER BY THE CHAIR. ITEM 2 WAS HEARD AFTER ITEM 7.D.**

*Public comments in regard to homeless encampment at Vista Montaña:*

*Bharat Ram stated the RV park is too close to children's park and has safety concerns.*

*Sheena has concerns that the RV park is next to children playground. She also stated she was not notified and would like neighborhood engagement. Lastly, this should not be next to a residential neighborhood.*

*Alma Goldchain stated that residents were not notified about this project, and that seems suspicious. The site is next to children's park, soccer field, and basketball court. Kids don't feel safe to play. Security issues. Site seems inhabitable.*

*Srinath stated that this should not be next to children's park. No transparency from city. Wants this item to go through public hearing process.*

*Balakrishna Katha stated that the location of RV site is too close to children's park, soccer field and apartments and neighborhoods. Was not informed or given prior notice.*

*Krishna Panikasseril stated that there is lack of planning on this site and no notice to community was given. The site is in a dense neighborhood with parking issues. Residents safety issues.*

*Murali requested that the Planning Commission have a plan. The site isn't safe for homeless people or residents.*

*Thomas Doherty stated he was not notified of this project and feels ambushed. Homeless people living feet away from two children parks. Concerns with homeless people using drugs and alcohol at the park.*

*Raja has safety concerns for children. There is crime in neighborhood such as car breakings.*

*Karthik Suresh stated there is no security, there are new residents that should not be there, and wanted to know who is making the plan.*

*Commissioner Bonilla responded to the comments on the RV parking at Vista Montana and stated the project does not fall under the Planning Commission jurisdiction.*

*Other public comment:*

*Mike Sodergren suggest a Planning Commission retreat agenda topic which is summary of mitigation measures when there is going to be statement of overriding consideration of a project related to CEQA, litigation and other issues on the back ends causing delaying other projects*

### 3. DEFERRALS AND REMOVALS FROM CALENDAR

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Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral or removal.

Staff will provide an update on the items for which deferral and removal is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring or removing these or any other items, please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak.

**No Items**

### 4. CONSENT CALENDAR

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The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items, please use the 'raise hand' feature in Zoom or click \*9 to raise a hand to speak or contact 408-535-3505 to request to speak.

**ACTION: COMMISSIONER LARDINOIS MADE A MOTION TO APPROVE THE STAFF RECOMMENDATIONS FOR CONSENT CALENDAR ITEMS 4.A. THROUGH 4.B.**

**COMMISSIONER CASEY SECONDED THE MOTION (10-0-1; OLIVERIO ABSENT).**

- a. [Review and Approve Action Minutes from August 25, 2021.](#)
- b. [CP21-006 \(Administrative Hearing\).](#) Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of beer, wine and distilled spirits (Type 21 Off-Sale General) at an approximately 3,000-square foot grocery store on an approximately 0.63-gross acre site located at 4160 Stevens Creek Boulevard. (FT & LO LLC, Owner). Council District 1. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities. *Dropped and renoticed from 8/25/21.*

**PROJECT MANAGER, PATRICK KELLY**

**STAFF RECOMMENDATION:**

- 1. CONSIDER THE CATEGORICAL EXEMPTION IN ACCORDANCE WITH SECTION 15301(A) OF THE STATE CEQA GUIDELINES; AND**
- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY TO ALLOW THE OFF-SALE OF BEER, WINE AND DISTILLED SPIRITS (TYPE 21 OFF-SALE GENERAL) AT AN**

**APPROXIMATELY 3,000-SQUARE FOOT GROCERY STORE ON AN  
APPROXIMATELY 0.63-GROSS ACRE SITE.**

## **5. PUBLIC HEARING**

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Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

**COMMISSIONER GARCIA STATED HIS CONFLICT OF INTEREST IN PARTICIPATING IN THE DECISION-MAKING ON ITEM 4.A., AND WAS MOVED TO THE WAITING ROOM. COMMISSIONER GARCIA LEFT THE ZOOM MEETING.**

- a. **[SP20-021 \(Administrative Permit\)](#)**. An appeal of the Planning Director's approval of a Special Use Permit to allow the demolition of two existing multi-family residential buildings and one single-family home (approximately 16,883 square feet total) and the construction of a new multi-family residential building (23 stories above grade, 248 feet in height) with a total of 240 residential dwelling units and five parking configuration options, including an alternative parking design (parking stackers) and an off-site parking arrangement (off-site parking location) located on the west of South Fourth Street, approximately 120-feet northwesterly of East William Street (459 South 4<sup>th</sup> Street). (UC South 4<sup>th</sup> Street Owner LLC, Owner). Council District 3. **CEQA:** Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final EIR for the Mark Residential Tower Project (SCH#2020080532).

***PROJECT MANAGER, LAURA MEINERS***

**ACTION: COMMISSIONER CABALLERO MADE A MOTION TO CONTINUE THIS ITEM TO THE OCTOBER 13, 2021 PLANNING COMMISSION MEETING AND THE COMMISSION WILL NOT BE TAKING FURTHER PUBLIC COMMENT.**

- 1. CONDUCT AN ADMINISTRATIVE HEARING TO CONSIDER THE APPEAL OF THE PLANNING DIRECTOR'S APPROVAL OF SPECIAL USE PERMIT NO. SP20-021 FOR THE MARK PROJECT, WHICH ALLOWS THE DEMOLITION OF TWO EXISTING MULTI-FAMILY RESIDENTIAL BUILDINGS AND ONE SINGLE-FAMILY HOME (APPROXIMATELY 16,883 SQUARE FEET TOTAL) AND THE CONSTRUCTION OF A NEW MULTI-FAMILY RESIDENTIAL BUILDING (23 STORIES ABOVE GRADE, 248 FEET IN HEIGHT) WITH A TOTAL OF 240 RESIDENTIAL DWELLING UNITS AND FIVE PARKING CONFIGURATION OPTIONS, INCLUDING AN ALTERNATIVE PARKING DESIGN (PARKING STACKERS) AND AN OFF-SITE PARKING ARRANGEMENT (OFF-SITE PARKING LOCATION) LOCATED ON THE WEST OF SOUTH FOURTH STREET, APPROXIMATELY 120-FEET NORTHWESTERLY OF EAST WILLIAM STREET (459 SOUTH 4<sup>TH</sup> STREET); AND**

2. **ADOPT A RESOLUTION CERTIFYING THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) TO THE DOWNTOWN STRATEGY 2040 FINAL EIR FOR THE MARK RESIDENTIAL TOWER PROJECT (SCH#2020080532) AND MAKE CERTAIN FINDINGS CONCERNING MITIGATION MEASURES AND ALTERNATIVES, AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), AS AMENDED; AND**
3. **ADOPT A RESOLUTION DENYING THE PERMIT APPEAL AND APPROVING, SUBJECT TO CONDITIONS, THE SPECIAL USE PERMIT TO ALLOW THE DEMOLITION OF TWO EXISTING MULTI-FAMILY RESIDENTIAL BUILDINGS AND ONE SINGLE-FAMILY HOME (APPROXIMATELY 16,883 SQUARE FEET TOTAL) AND THE CONSTRUCTION OF A NEW MULTI-FAMILY RESIDENTIAL BUILDING (23 STORIES ABOVE GRADE, 248 FEET IN HEIGHT) WITH A TOTAL OF 240 RESIDENTIAL DWELLING UNITS AND FIVE PARKING CONFIGURATION OPTIONS, INCLUDING AN ALTERNATIVE PARKING DESIGN (PARKING STACKERS) AND AN OFF-SITE PARKING ARRANGEMENT (OFF-SITE PARKING LOCATION).**

**COMMISSIONER TORRENS SECONDED THE MOTION (7-3-0-1; CANTRELL, MONTAÑEZ, OLIVERIO OPPOSED; GARCIA ABSTAINED)**

**COMMISSIONER GARCIA JOINED THE MEETING AFTER ITEM 5.A. WAS HEARD.**

## **6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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**No Items**

## **7. GOOD AND WELFARE**

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- a. Report from City Council

*The Commission secretary reported on City Council actions taken on September 14, 2021.*

- b. Subcommittee Formation, Reports, and Outstanding Business

*No items*

- a. Commission Calendar and Study Sessions

- i. Study Session scheduled for 10/13/21 for the General Plan Four-Year Review

*Commissioner Bonilla asked for the Study Session to be moved to a new date. No date certain was specified.*

ii. Annual Retreat potential dates October 22, 2021 or October 29, 2021

1) Discuss topics received for Annual Retreat

*Commissioner Ornelas-Wise proposed October 22, 2021 as the retreat date. All other Commission members agreed to this date.*

d The Public Record

*No items*

## **8. ADJOURNMENT**

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Meeting adjourned at 8:34 p.m.